

United States Senate
WASHINGTON, DC 20510

573

WCB
Connect
America
USF
Lifeline

June 9, 2015

The Honorable Thomas Wheeler
Chairman
Federal Communications Commission
445 12th Street, SW
Washington, DC 20554

Dear Chairman Wheeler:

Created in 1985 to help low income households afford basic telephone service, Lifeline enrollment ballooned from 6.8 million households in 2008 to over 18 million in 2012 amid reports of rampant waste, fraud, and abuse. On June 2, 2015, the Senate Subcommittee on Communications, Technology, Innovation, and the Internet held a hearing titled, "Lifeline: Improving Accountability and Effectiveness." The hearing served as an important reminder that the Federal Communications Commission (FCC) needs to restore public confidence in the program through comprehensive reforms if there is any hope of revitalizing it to help those who are truly in need.

We understand that the FCC is circulating a proposal to extend these wireless subsidies to broadband service. While we agree that broadband service plays a vital role in our society, our recent hearing highlighted the lack of specific performance metrics and basic eligibility data on the 12 million current beneficiaries that need to be addressed before the program is potentially expanded. A March 2015 Government Accountability Office (GAO) report underscored this issue, finding that the FCC has not sufficiently evaluated Lifeline to determine if it was actually accomplishing its objective of helping narrow the telephone penetration gap between low-income and non-low-income citizens.

Lifeline is unique among the Universal Service Fund (USF) programs in that it does not have an overall cap on expenditures. We are concerned that uncontrolled growth in this program could crowd out other important initiatives that are critical to serving our rural, low-income constituents. It is irresponsible to allow these fees to continue to escalate on middle class families without assurances that their money is being spent in a responsible, transparent manner. We request the FCC adopt real reforms to Lifeline before considering an expansion of the program. Such reforms the FCC should examine include the following:

- Cap the Lifeline program in a way that is consistent with other USF services;
- Evaluate the effectiveness of the Lifeline program at accomplishing its objective;
- Reduce financial incentives to commit fraud with a modest co-pay;
- Prohibit participating carriers from giving away free equipment and service;
- Put safeguards in place to ensure greater transparency for ratepayers;
- Establish an automated eligibility verification system;
- Finalize a uniform, flat-rate reimbursement; and

- Revise the Eligible Telecommunications Carriers (ETCs) designation process to stimulate competition among providers.

Lifeline needs to be targeted at serving those truly in need of assistance, and we are committed to regaining the public's trust through good government reforms. We look forward to your response and collaboration on making much needed improvements to this program.

Sincerely,

A handwritten signature in blue ink, reading "Deb Fischer", positioned above a horizontal line.

Deb Fischer
U.S. Senator

A handwritten signature in blue ink, reading "Joe Manchin", positioned above a horizontal line.

Joe Manchin
U.S. Senator



FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

OFFICE OF
THE CHAIRMAN

July 23, 2015

The Honorable Joe Manchin
United States Senate
306 Hart Senate Office Building
Washington, D.C. 20510

Dear Senator Manchin:

Thank you for your letter expressing concerns regarding the Commission's efforts to modernize the universal service Lifeline program. I share your desire to ensure that Lifeline accomplishes its objectives in an efficient and effective manner to help those who are truly in need. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

The current iteration of the Lifeline program was established under a previous administration in 2007-2008. At that time, the program was expanded to allow wireless resellers to become "Eligible Telecommunications Carriers" ("ETCs") and receive Lifeline support. The program was poorly constructed in that it allowed the ETCs who would receive the funds to also determine the applicant's eligibility. This conflict-of-interest ran rampant. The program was also poorly administered in that there was no way to check to determine if multiple people at a single address were receiving benefits in violation of the "one-to-a-household" rule.

It took a while for a new Commission to take office and get its arms around these problems. In 2012, however, the waste, fraud, and abuse began to decline as a result of new Commission oversight. Over \$1 billion in waste has been eliminated since 2012. As a result, the assessments made to ratepayers' bills to support this program has steadily declined. What's more, the Commission has cracked down on fraudulent providers. Since 2013, the Commission has assessed approximately \$100 million in fines against these perpetrators.

You made eight specific recommendations in your letter, each of which we have addressed in the recent Further Notice of Proposed Rulemaking and Order (the "*2015 Lifeline FNPRM and Order*") adopted by the Commission on June 18, 2015. Specifically:

- *Cap the program.* The Commission sought comment on a budget to ensure that all of our goals are met as the program transitions to broadband, including minimizing the contribution burden on ratepayers, while allowing the Commission to take account of the unique nature and goals of the Lifeline program. We asked questions about the appropriate size of the budget, as well as what data the Commission should use in determining how to size the budget.
- *Evaluate the effectiveness of the program.* We agree with GAO on the importance of evaluating whether the Lifeline program is achieving its goals. The *2015 Lifeline*

FNPRM and Order will help us evaluate the effectiveness of the Lifeline program. For example, the Commission sought comment on whether it should consider measurements other than affordability that will assist in an ongoing evaluation of the program in addition to the measurements established by the Commission in 2012 in the *Lifeline Reform Order*. And to more specifically address GAO's recommendation, the Commission sought comment on how it can best evaluate the Lifeline program and the extent to which the program has achieved the program goals.

- *Reduce financial incentives to commit fraud with a modest co-pay.* The *FNPRM* proposed the establishment of minimum service standards for fixed and mobile voice and broadband service. It also proposed maintaining the current per-subscriber subsidy of \$9.25 per month. Requiring minimum service standards could result in the cost of the Lifeline service exceeding the current subsidy, thereby requiring subscribers to make a financial contribution towards the service they receive. The Commission therefore believes that the establishment of minimum service standards would likely reduce the financial incentives to commit fraud in the Lifeline program.
- *Prohibit participating carriers from giving away free equipment and service.* For the same reasons stated above, the implementation of minimum service standards would also address your concern regarding free service and equipment. Maintaining the monthly subsidy of \$9.25 while establishing minimum service standards could lead to the imposition of fees, for both service and equipment, by participating carriers enrolling subscribers in the Lifeline program.
- *Put safeguards in place to ensure greater transparency for ratepayers.* The *2015 FNPRM and Order* took two steps to improve transparency and promote accountability in the program. In the *FNPRM*, the Commission proposed steps to make it easier for the public to see the total number of subscribers for which an ETC claims support. And in the *Order*, we affirmed the Wireline Competition Bureau's decision to release recertification and non-usage de-enrollment data that carriers must file with the Commission. This information will help the public better understand the level of support carriers in their states receive under the program, as well as changes in aggregate program subscribership.
- *Establish an automated eligibility verification system.* The *FNPRM* proposed streamlining and tightening the process of verifying consumer eligibility by taking it out of the hands of providers. Removing that decision from the provider will eliminate one potential source of waste, fraud, and abuse while creating more efficiencies overall in the program administration. We sought comment on establishing a third-party "national verifier," coordinating with other federal needs-based programs, considering the use of direct subsidies to consumers through vouchers, and a number of additional ways to increase the efficient administration of the Lifeline program. In the interim, however, the *Order* requires eligible telecommunications carriers to retain documentation demonstrating subscriber eligibility for audit purposes. Document retention, along with proposed measures such as e-sign, IP address retention, and the establishment of an audit program, would improve oversight, accountability, and enforceability of the Commission's rules. Recognizing that the Lifeline program must continue to evolve to

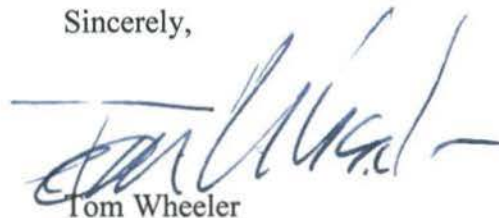
reflect the realities of the 21st century communications marketplace, this would effectively safeguard the program for both the beneficiaries of the program, as well as those who pay into the universal service fund.

- *Finalize a uniform, flat-rate reimbursement.* The Commission sought comment on the establishment of a permanent support amount. Acknowledging that Lifeline makes communications services more affordable for low-income consumers by providing a monthly subsidy, we proposed, as you suggest, to make permanent the current support amount of \$9.25 with the goal of using that money as efficiently and effectively as possible to deliver modern communications services.
- *Revise the ETC designation process.* We agree that competition among providers on price and service offerings would benefit Lifeline subscribers and would ensure ratepayer dollars support an efficient program. Therefore, the item sought comment on how to encourage providers to participate in the program and how to encourage participation by the states. It is our hope that this *FNPRM* will allow us to reform and modernize the Lifeline program to make it more efficient, accountable, and effective at helping low-income consumers access the communications technology they need to participate in today's society, while proposing additional protections against waste, fraud, and abuse.

The proposals and questions in the *FNPRM* reflect our effort to fulfill one of the Commission's fundamental responsibilities – ensuring that all Americans have access to vital communications services – while managing public resources in an effective, efficient manner that advances the public interest. We look forward to a robust record on the questions raised in the *FNPRM*.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a horizontal line extending to the left.

Tom Wheeler



OFFICE OF
THE CHAIRMAN

FEDERAL COMMUNICATIONS COMMISSION
WASHINGTON

July 23, 2015

The Honorable Deb Fischer
United States Senate
454 Russell Senate Office Building
Washington, D.C. 20510

Dear Senator Fischer:

Thank you for your letter expressing concerns regarding the Commission's efforts to modernize the universal service Lifeline program. I share your desire to ensure that Lifeline accomplishes its objectives in an efficient and effective manner to help those who are truly in need. Your views are very important and will be included in the record of the proceeding and considered as part of the Commission's review.

The current iteration of the Lifeline program was established under a previous administration in 2007-2008. At that time, the program was expanded to allow wireless resellers to become "Eligible Telecommunications Carriers" ("ETCs") and receive Lifeline support. The program was poorly constructed in that it allowed the ETCs who would receive the funds to also determine the applicant's eligibility. This conflict-of-interest ran rampant. The program was also poorly administered in that there was no way to check to determine if multiple people at a single address were receiving benefits in violation of the "one-to-a-household" rule.

It took a while for a new Commission to take office and get its arms around these problems. In 2012, however, the waste, fraud, and abuse began to decline as a result of new Commission oversight. Over \$1 billion in waste has been eliminated since 2012. As a result, the assessments made to ratepayers' bills to support this program has steadily declined. What's more, the Commission has cracked down on fraudulent providers. Since 2013, the Commission has assessed approximately \$100 million in fines against these perpetrators.

You made eight specific recommendations in your letter, each of which we have addressed in the recent Further Notice of Proposed Rulemaking and Order (the "*2015 Lifeline FNPRM and Order*") adopted by the Commission on June 18, 2015. Specifically:

- *Cap the program.* The Commission sought comment on a budget to ensure that all of our goals are met as the program transitions to broadband, including minimizing the contribution burden on ratepayers, while allowing the Commission to take account of the unique nature and goals of the Lifeline program. We asked questions about the appropriate size of the budget, as well as what data the Commission should use in determining how to size the budget.
- *Evaluate the effectiveness of the program.* We agree with GAO on the importance of evaluating whether the Lifeline program is achieving its goals. The *2015 Lifeline*

FNPRM and Order will help us evaluate the effectiveness of the Lifeline program. For example, the Commission sought comment on whether it should consider measurements other than affordability that will assist in an ongoing evaluation of the program in addition to the measurements established by the Commission in 2012 in the *Lifeline Reform Order*. And to more specifically address GAO's recommendation, the Commission sought comment on how it can best evaluate the Lifeline program and the extent to which the program has achieved the program goals.

- *Reduce financial incentives to commit fraud with a modest co-pay.* The *FNPRM* proposed the establishment of minimum service standards for fixed and mobile voice and broadband service. It also proposed maintaining the current per-subscriber subsidy of \$9.25 per month. Requiring minimum service standards could result in the cost of the Lifeline service exceeding the current subsidy, thereby requiring subscribers to make a financial contribution towards the service they receive. The Commission therefore believes that the establishment of minimum service standards would likely reduce the financial incentives to commit fraud in the Lifeline program.
- *Prohibit participating carriers from giving away free equipment and service.* For the same reasons stated above, the implementation of minimum service standards would also address your concern regarding free service and equipment. Maintaining the monthly subsidy of \$9.25 while establishing minimum service standards could lead to the imposition of fees, for both service and equipment, by participating carriers enrolling subscribers in the Lifeline program.
- *Put safeguards in place to ensure greater transparency for ratepayers.* The *2015 FNPRM and Order* took two steps to improve transparency and promote accountability in the program. In the *FNPRM*, the Commission proposed steps to make it easier for the public to see the total number of subscribers for which an ETC claims support. And in the *Order*, we affirmed the Wireline Competition Bureau's decision to release re-certification and non-usage de-enrollment data that carriers must file with the Commission. This information will help the public better understand the level of support carriers in their states receive under the program, as well as changes in aggregate program subscribership.
- *Establish an automated eligibility verification system.* The *FNPRM* proposed streamlining and tightening the process of verifying consumer eligibility by taking it out of the hands of providers. Removing that decision from the provider will eliminate one potential source of waste, fraud, and abuse while creating more efficiencies overall in the program administration. We sought comment on establishing a third-party "national verifier," coordinating with other federal needs-based programs, considering the use of direct subsidies to consumers through vouchers, and a number of additional ways to increase the efficient administration of the Lifeline program. In the interim, however, the *Order* requires eligible telecommunications carriers to retain documentation demonstrating subscriber eligibility for audit purposes. Document retention, along with proposed measures such as e-sign, IP address retention, and the establishment of an audit program, would improve oversight, accountability, and enforceability of the Commission's rules. Recognizing that the Lifeline program must continue to evolve to


reflect the realities of the 21st century communications marketplace, this would effectively safeguard the program for both the beneficiaries of the program, as well as those who pay into the universal service fund.

- *Finalize a uniform, flat-rate reimbursement.* The Commission sought comment on the establishment of a permanent support amount. Acknowledging that Lifeline makes communications services more affordable for low-income consumers by providing a monthly subsidy, we proposed, as you suggest, to make permanent the current support amount of \$9.25 with the goal of using that money as efficiently and effectively as possible to deliver modern communications services.
- *Revise the ETC designation process.* We agree that competition among providers on price and service offerings would benefit Lifeline subscribers and would ensure ratepayer dollars support an efficient program. Therefore, the item sought comment on how to encourage providers to participate in the program and how to encourage participation by the states. It is our hope that this *FNPRM* will allow us to reform and modernize the Lifeline program to make it more efficient, accountable, and effective at helping low-income consumers access the communications technology they need to participate in today's society, while proposing additional protections against waste, fraud, and abuse.

The proposals and questions in the *FNPRM* reflect our effort to fulfill one of the Commission's fundamental responsibilities – ensuring that all Americans have access to vital communications services – while managing public resources in an effective, efficient manner that advances the public interest. We look forward to a robust record on the questions raised in the *FNPRM*.

I appreciate your interest in this matter. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tom Wheeler", with a stylized flourish at the end.

Tom Wheeler